

ESTTA Tracking number: **ESTTA534784**

Filing date: **04/29/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Endo Pharmaceuticals Inc.
Granted to Date of previous extension	05/01/2013
Address	1400 Atwater Drive Malvern, PA 19355 UNITED STATES
Correspondence information	James R. Meyer, Ronald J. Ventola II Schnader Harrison Segal & Lewis LLP 1600 Market Street Ste 3600 Philadelphia, PA 19103 UNITED STATES rventola@schnader.com, jmeyer@schnader.com, trademarks@schnader.com, syeung@schnader.com Phone:215-751-2000

Applicant Information

Application No	85515020	Publication date	01/01/2013
Opposition Filing Date	04/29/2013	Opposition Period Ends	05/01/2013
Applicant	Endocellutions, Inc. Suite 12 475 School Street Marshfield, MA 02050 UNITED STATES		

Goods/Services Affected by Opposition

Class 005.
All goods and services in the class are opposed, namely: Biological tissue, namely, stem cells for commercial clinical and medical use in cellular healing therapies

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2004648	Application Date	12/01/1993
Registration Date	10/01/1996	Foreign Priority Date	NONE
Word Mark	ENDO		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 1994/05/19 First Use In Commerce: 1994/05/19 house mark for a [full] line of pharmaceutical preparations *, namely, analgesics and pain management preparations, preparations for the treatment of cancers, preparations for the treatment of urological diseases and disorders, preparations for the treatment of schizophrenia; preparations for the treatment of diseases and disorders of the endocrine system, hormone replacement preparations *

Attachments	NoOpp EndoCellutions.pdf (5 pages)(123240 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Ronald J. Ventola II/
Name	Ronald J. Ventola II
Date	04/29/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Trademark Trial and Appeal Board**

IN RE: Application No. 85515020

Trademark: ENDOCELLUTIONS

Opposer: Endo Pharmaceuticals Inc.

Applicant: Endocellutions, Inc.

Published: January 1, 2013

Attorney Docket No: 0222552-0112

NOTICE OF OPPOSITION

Commissioner for Trademarks
Alexandria, VA 22313-1451

Dear Sir or Madam:

Endo Pharmaceuticals Inc., a Delaware corporation located and doing business at 1400 Atwater Drive, Malvern, PA 19355 (“Endo”) believes it will be damaged by the registration of the above identified mark (hereinafter “Applicant’s mark”), and having sought and obtained extensions of the time to file a Notice of Opposition, hereby opposes the same.

The grounds for the opposition are as follows:

1. Endo is a U.S.-based, specialty healthcare solutions company, focused on high-value branded pharmaceutical preparations and specialty generic pharmaceutical preparations. In addition, Endo delivers an innovative suite of complementary diagnostics, drugs, devices, and clinical data to meet the needs of patients in areas such as pain, urology, oncology, and endocrinology.

2. Endo's predecessor first used the ENDO® trademark for pain-relief tablets almost one hundred years ago, beginning in 1916. Since that time, the ENDO® name and mark has developed invaluable good will and reputation among healthcare providers and patients as a designator of source for prescription pharmaceutical preparations and related goods and services. Such good will and the registrations symbolizing such good will are now owned by Endo.

3. Since its early use, Endo has expanded its use of the ENDO® mark to include other registered trademarks using ENDO... as a prefix, including ENDOCET® and ENDODAN®.

4. Endo uses its ENDO® name and mark as a house mark to identify its broad range of pharmaceutical and healthcare goods and services.

5. Endo is the owner of RN 2,004,648 for the ENDO® mark for pharmaceutical preparations and other registered marks beginning ENDO... for pharmaceutical preparations and related goods and services (the "ENDO® Marks").

6. Based on its long and substantially exclusive use of ENDO® and marks beginning ENDO... for prescription pharmaceutical preparations, the ENDO® Marks have acquired and maintain distinctiveness in identifying prescription pharmaceutical preparations and related goods and services sourced from or sponsored by Endo.

7. On January 12, 2012, Applicant filed its application to register ENDOCELLUTIONS for "Biological tissue, namely, stem cells for commercial clinical

and medical use in cellular healing therapies.” Applicant did not amend its description of goods.

8. Applicant’s mark ENDOCELLUTIONS was published for opposition on January 1, 2013. Endo has sought and obtained extensions of the opposition period.

9. Endo’s rights in its ENDO® Marks long predate any rights of Applicant in ENDOCELLUTIONS.

10. There is no issue as to priority.

11. Endo’s rights in its ENDO® Marks are incontestable.

12. Applicant’s mark ENDOCELLUTIONS is similar to the ENDO® Marks in sound, meaning, and appearance.

13. Applicant’s unrestricted use and registration of ENDOCELLUTIONS for the goods listed in the application herein opposed will likely lead to confusion, to mistake, or to deception of the public within the meaning of Section 2(d) of the Trademark Act of 1946.

14. By reason of the foregoing, Applicant’s registration of ENDOCELLUTIONS for the goods listed in the application opposed herein would cause injury and damage to Endo.


WHEREFORE, Opposer prays that its opposition to Application Serial No. 85515020 be sustained and that the application be refused.

Please address all correspondence to James R. Meyer, Esq. at the address below.

Respectfully submitted,

SCHNADER HARRISON SEGAL & LEWIS LLP

Dated: April 26, 2013

By: 
James R. Meyer
Ronald J. Ventola II
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Philadelphia, PA 19103
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ATTORNEYS FOR OPPOSER

Certification Under 37 CFR 1.8

I hereby certify that this paper or fee is being deposited with the United States Postal Service with sufficient postage as first-class mail under 37 CFR 1.8 on the date indicated below and is addressed to:

Mary E. Landergan, Esq.
Rich May, A Professional Corporation
176 Federal St. Fl 6
Boston, MA 02110-2223

and sent by e-mail on this date to Ms. Landergan at: mlandergan@richmaylaw.com.

Dated: April 26, 2013



RONALD J. VENTOLA II